JLPH: Journal of Law, Politic and Humanities
E-ISSN: 2962-2816
P-ISSN: 2747-1985
https://dinastires.org/JLPH dinasti.info@gmail.com +62 811 7404 455
DOI: https://doi.org/10.38035/jlph.v6i2


# Establishing Time Limits For Investigations Based On Legal Certainty Values

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**Abstract:** This article examines the reformulation of the investigation time limit regulation based on the value of legal certainty in the Indonesian criminal law system. The provisions in the current Criminal Procedure Code (KUHAP) do not regulate the investigation time limit, thus creating legal uncertainty, weak oversight, and the potential for abuse of authority by law enforcement officers. This study uses a normative juridical approach with descriptive analysis to find the ideal concept for reforming criminal procedure law. The results show that the unclear investigation time limit contradicts the principle of due process of law and the principle of speedy, simple, and low-cost justice. Therefore, a reformulation of the KUHAP is needed by adding provisions regarding the maximum 30-day investigation period, reasons for termination of investigation, and internal and external oversight mechanisms. This reformulation is expected to ensure legal certainty, prevent abuse of authority, and strengthen human rights protection in the criminal justice process in Indonesia.

**Keyword:** Reformulation; Investigation; Time Limit; Legal Certainty; Criminal Procedure Law.

## INTRODUCTION

Crime is a social phenomenon whose existence cannot be separated from the political, economic, social, and cultural conditions of society (Muladi & Sulistyani, 2016). Nowadays, various crimes frequently occur in Indonesia and attract public attention. In an effort to overcome them, criminal policy is needed as a rational strategy to control crime. According to Peter Hoefnagels, criminal policy is a rational effort undertaken by humans to overcome crime(Arief, 2014). In the Indonesian context, this policy is implemented through the criminal justice system which includes the police, prosecutors, courts, and correctional institutions.

(Reksodiputro, 1994) Each of these subsystems must be integrated to achieve the main objectives of criminal policy, namely social welfare and social defense.

The Indonesian National Police (Polri) is a vital component of the criminal justice system and acts as investigators and prosecutors of criminal acts. Under Law Number 8 of 1981 concerning Criminal Procedure Code (KUHAP) and the Police Law, the Polri has the authority to enforce the law in accordance with criminal procedure. The broad scope of the Polri's duties makes their role highly complex, particularly since almost all crimes must go through the inquiry and prosecution phase by the police. However, carrying out these duties is not always easy due to various obstacles and constraints in the field, both technical and administrative, which can affect the effectiveness of law enforcement. In the context of criminal justice, the initial stage of law enforcement begins with an inquiry and prosecution. This process usually begins with a report or complaint from the public to law enforcement officials. The KUHAP regulates in detail the procedures for inquiries and prosecutions, where the aim of the inquiry is to identify and identify events suspected of being criminal acts to determine whether an investigation can be conducted. Philosophically, the police should ideally be protectors of the community, as viewed by J.J. Rousseau, in his theory of state formation, stated that state apparatus, including the police, hold a mandate from the people to maintain security and order as part of a social contract.

The ontological problem is that in the law enforcement process there is an assumption that "it is not yet the authority of" law enforcement officers "to conduct investigations and inquiries, if the reporter or victim of a crime has not filed a report or complaint with the police. This condition affects the effectiveness of the investigation or inquiry itself, which creates a situation as if "the state is not present" to carry out its duties to protect the community, when a crime has occurred. Basically, the investigation and inquiry process can still be carried out without a report or complaint. In Pancasila, it is essentially the basis, or philosophical basis for the State and the Indonesian Legal Order.(Sulistiowati & Ismail, 2018) Internalization of the values of the principles in Pancasila in each norm contained in a statutory regulation is the basis for the implementation of legal analysis and evaluation of a statutory regulation, including regulations regarding investigations. As for the problematic aspect of Epistemology, namely the absence of regulations on the time limit for investigations and the scope of investigations in the Criminal Procedure Code, thus creating uncertainty about the length of the investigation process and also causing overlap between the investigation and inquiry processes, Then Philosophical problems from an axiological perspective, namely considering the absence of a time limit for investigations in the Criminal Procedure Code (KUHAP), it is necessary to reformulate the investigation regulations in the revised KUHAP, particularly regarding the time limit for investigations, to ensure legal certainty and prevent harm to the human rights of the reported or suspected. Theoretically, the judicial system, according to the KUHAP, adheres to the principle of functional differentiation, meaning that each law enforcement officer in the criminal justice system has its own separate duties and functions. The KUHAP distinguishes between investigators and investigators and their respective authorities. Unfortunately, the KUHAP does not provide adequate regulations regarding the investigation process compared to the regulation of investigations. Therefore, in practice, the investigation and inquiry processes are carried out overlappingly by police officers, thus obscuring the principle of functional differentiation adopted by the KUHAP. Even more ironic is the elimination of the investigation process in the KUHAP Bill, so that there is no longer an investigation process for reports or complaints of criminal acts aimed at ensuring that the alleged crime reported or complained about has actually occurred. In addition, the existence of Police Chief Regulation Number 6 of 2019 and Political Party Regulation Number 8 of 2021 The Law on Handling Criminal Acts Based on Restorative Justice provides an opportunity for resolving criminal acts outside the courts. The question of investigation is whether it is possible for reports or crime

scene investigations that have only found preliminary evidence or the results of wiretaps of conversations indicating a crime (bribery and narcotics) to be resolved through Restorative Justice. Of course, this requires a thorough analysis of whether all alleged criminal acts can be resolved through Restorative Justice or only certain alleged criminal acts. Furthermore, if examined legally, in Criminal Procedure Code and other regulations, investigations are still not subject to a time limit. The purpose of an investigation is to obtain or gather information, evidence, or data that investigators can use to determine whether an incident constitutes a crime or not.

An investigation aims to determine whether an event or act constitutes a criminal act or event. An inquiry is a series of activities carried out by investigators to gather evidence and materials to clarify the crime and determine the perpetrator or suspect. The results of the inquiry can be escalated to the preliminary investigation stage if sufficient evidence is found to indicate that the act is a criminal act. Furthermore, the public is concerned because they frequently encounter investigative actions or efforts that violate public justice. Indeed, uncovering a crime is sometimes not as easy as imagined, however, law enforcement officers must be able to skillfully uncover crimes, without resorting to violence or torture. Investigators should not pursue confessions from the accused, but rather seek valid evidence and materials that support the truth of the suspect's actions. The case of "Murder of Ashori" which claimed the lives of Kemat, David and Sugik is evidence of the error of the investigator, public prosecutor and judge in the case of wrongful arrest (error in persona), wrong demand, and wrong decision.(Kemat Dan Devid Akhirnya Juga Bebas, 2008) The main mistake in this case lies with the investigator, namely the investigator in this case pursued the suspect's confession even though the confession was not valid evidence, without considering the evidence and supporting materials for the act.

It is also common for the Indonesian Police to check documents and permits, then put up police lines or police line. When the place of business is in police line, society does not bias open a business and suffer losses because police line in the context of an investigation or under the pretext of further investigation. Local residents may also have a negative view of the business premises inpolice line. The ambiguity of the timeframe for the investigation, including the installationpolice line which has been going on for a long time and has resulted in losses for the community, which is often exploited by certain individuals or parties to benefit themselves or groups illegally and at the expense of the community members who are victims. Another issue arises in the internal and external oversight of the implementation of investigations and inquiries. Internal oversight by the National Police's Investigation Supervision Bureau (Wassidik) is often deemed less than objective because it remains under the same structure as the investigative agency. Meanwhile, external oversight by the National Police Commission (Kompolnas) is also suboptimal because it lacks investigative authority. Kompolnas data from 2021 shows that of 3,701 public complaints, 1,511 related to investigative functions, including investigations and inquiries. This fact demonstrates the need to strengthen oversight mechanisms to ensure that law enforcement processes are transparent, accountable, and in line with the principles of a rule of law that uphold justice.

## RESULTS AND DISCUSSIO

### Investigative Arrangements in the United States and France

A. America

In some other countries' legal systems, there is no separate term for preliminary examination, as is known in the Criminal Procedure Code which distinguishes between inquiry and investigation. In different languages, preliminary examination is referred to asinvestigationin England and the United States. Meanwhile, in the Netherlands, the preliminary examination is known asdetection.

While other countries generally don't have a separate system for preliminary examinations, research has shown that several countries, such as the United States and France, utilize investigations in their preliminary examinations. Unfortunately, the investigations in the United States and France don't stipulate a timeframe for the investigations.

Although the United States and France do not regulate the time period for investigations, criminal procedure laws in the United States and France regulate the supervision of investigations and efforts to object to police actions.

United States of America

Police agencies in the United States are structured on the principle of decentralization (decentralized). Except in terms of coordinative relations, these fragmented police institutions have no administrative or organizational relations with each other.

So many agencies perform police functions in the United States that the exact number is uncertain. The President's Commission on Law Enforcement estimated in 1967 that there were about 40,000 police agencies in the United States, while a 1992 study by Walker estimated about 19,691. Data from Law Enforcement Management and Administration Statistics estimated more than 17,000 police agencies in the United States in 1993. Farouk Muhammad, Police System in the United States (Jakarta: Restu Agung, 2001), 27

Some police agencies or institutions in the United States include:

a. Local police agencies such as the District Police (County Police) and City Police (Municipality Police). County Policeis the lowest level of government whose jurisdiction is part of the territoryjurisdictionfrom a state (state). The person responsible for police functions at the level county is a person sheriff. Meanwhile Municipality Policeis a police agency or body established by the relevant city government.
b. Big City Police (City Policy) is a police agency formed by the Mayor (mayor) who also leads the City Council (City Council). Therefore, a police agency like this is formed as a department that is directly responsible to the Mayor. Some police departments in large cities, as previously mentioned, include:New York Police Department (NYPD), Los Angeles Police Department(LAPD) and others. However, not all large cities have mayors; some large cities are even led by managers appointed by the Government Administrative Council and independent of political party influence. These managers are elected by the City Council (city council) which is not related to political parties and plays a role in public administration. Other local police (Town and Village Police), are police agencies established in small towns and even at the village level, although not all villages or towns have their own police force. Police or police chiefs at this level are usually directly elected by the people or their mayors. State police agencies such as the Texas Rangers, which were established in 1835, orPennsylvania State Policewhich was organized in 1905. Police agencies like these perform police functions at the state level.
c. Federal Police agencies such asFederal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), United States Marshal Service, United States Secret Service(USSS),Bureau of Alcohol, Tobacco and Firearms (ATF).

The FBI is the most renowned federal police agency, known for its professionalism and sophisticated equipment. Its reputation is renowned not only domestically but also throughout the world.

DEA (Drug Enforcement Administration) was founded on July 1, 1973 as a merger ofFederal Bureau of Narcoticswhich is under the Ministry of Finance and Bureau of Drug Abuse Control(BDAC) which is under the Department of Agriculture c.q.Food and Drug Administration (FDA).

United States Marshal Serviceis the oldest federal police agency, established in 1789 along with the establishment of the federal judiciary. The main duties of the USMarshall Service is:

a. Delivering summons, making arrests, searches, confiscations and detentions upon court orders;
b. Presenting and escorting prisoners both to prison and for trial purposes;
c. Calling and controlling witnesses and jurors;
d. Ensure the security of court proceedings;
e. Searching for/capturing prisoners who have escaped from (federal) correctional institutions, or convicts who have failed to pay fines set by the court;
f. Maintain and protect immovable property evidence, whether confiscated by the court or other law enforcement agencies such as the FBI, DEA and others.
g. Taking emergency response measures, such as mass riots, terror, hostage-taking, even demonstrations in military complexes.

The FBI, DEA and US Marshall, fall under the Department of Justice (Department of Justice).

Then there is United States Secret Service(USSS) is a police agency under the Ministry of Finance (Department of TreasuryThis agency or institution was founded in 1865, initially its main task was limited to investigating crimes of counterfeiting money and securities, both belonging to the United States and other countries circulating in the US. However, since 1901 after the assassination of President William Mc. Kinley, this agency was given the responsibility to provide security and protection for the President. Currently, the scope of its duties includes: first, investigation of financial crimes (investigative mission), and second, protection of the president and important officials and places (protective mission).

ATF (Bureau of Alcohol, Tobacco and Firearms) is also a federal police agency under the Department of Finance. This agency is the result of a reorganization ofInternal Revenue Service(IRS) which was officially separated from the IRS on July 1, 1972. Its main duties are related to the enforcement of federal laws relating to alcohol, tobacco and firearms.

Apart from the police agencies described above, there are other police agencies such as:Immigration and Naturalization Service(INS) or the immigration service which is under the Department of Justice. There is alsoUnited States Customs Service(USCS) or the Customs and Excise Service which is under the Department of the Treasury andUnited States Coast Guard(USCG) or Coast Guard Police which is under the Department of Transportation.

The FBI, DEA and US Marshall are underDepartment of Justice, while USSS, ATF, IRS, INS, USCS are underDepartment of Treasury And US Coast Guardbe belowDepartment of TransportationMeanwhile, local police are under the control of local or state governments. It can be seen that the police system in the United States is not only fragmented and generally decentralized, but also partially centralized.

In the United Statesexclusionary rulesis a rule that originates and develops fromcase lawwhich is intended to protect citizens from arbitrary actions by law enforcement officers, Paul B. Weston and Keneth M. Weus, The Administration of Justice (New Jersey Prentice Hall, 1973), 50

Investigators (police) are authorized to name someone as a suspect and make an arrest based on a court order. The arrest process follows the following stages: first, "be reviewed, first by the police and then by the prosecutor." Then, "the arrestee must be brought before the magistrate within a relatively short period to that point the charges against the arrestee must be filed with the magistrate"(Weston & Weus, 1973)

In addition, the investigation bygrand juryalso known in America, however, investigations bygrand juryThis is felt to be no more efficient and effective than police investigations, so there is resistance to it.grand jury. Quoting the opinion of Yale Kamisar and friendsthat, "compared to police investigations, grand jury investigations are expensive, time consuming, and logistically burdensome; heavy and awkward to carry" Besides that, "because

they usually “rubber stamp” the wishes of the prosecutor, almost always return a true biu, “ indicting the defendant”(Abadinsky, 1984).

In the American legal system, the arrest of a suspect by the police is always with the consent of the suspect.magistrate. Arrest is not solely at the discretion of the investigator. If compared simply from an institutional perspective, a magistrate is similar to a commissioner judge. The police will request a court order calledwarrantbefore the police made the arrest, "there is no immediate need to arrest a suspect, an officer may seek to obtain an arrest warrant (a court order authorizing the arrest) prior to taking the person into custody.However, in making the arrest, it is required that the investigator hasprobable causepreviously and when it will continue with detention, further conditions are requiredreasonablenesswhich for validity requires determination frommagistrates. In practice, the police in obtaining a determination frommagistratefor, "probable cause may be made by affidavits or live testimony of either the investigating officer or a witness (usually the victim)”.

Arrest in such cases can also be carried out withouta warrant, namun, “officer wiu seek to obtain a warrant, rather than rely on a warrantless arrest, only in special settings which make a warrant legally necessary or otherwise advantageous.”Unqualified arrests such as determinationmagistrate is advantageouseven have legal consequences, for example the examination is null and void by law which can be accompanied by demands for compensation and rehabilitation.

In America, when "there is no immediate need to arrest a suspect, an officer may seek to obtain an arrest warrant (a court order authorizing the arrest) prior to taking the person into custody. Arrest warrants in most jurisdictions are issued by magistratesEvery act of coercionmagistratesmust give consent.

Associated with Habeas Corpus Actin the United States gives a person the right to sue an authorized official who deprives him of his civil liberties and the court will decide whether the deprivation of liberty is lawful or unlawful. (Packer, 1986) The court in question is a preliminary examining judge who acts as a supervisor and is usually known as a Magistrate.(Packer, 1986) As a court supervisor, the Magistrate has been involved since the investigation process was carried out (pre-trial).(Packer, 1986).

Magistrates or court supervisors in the United States are involved in three pre-trial processes, starting from preliminary hearing, arraignment, to pretrial conference. (Packer, 1986) Preliminary hearing is a tool created to protect suspects from unlawful judicial processes, for example arrest without a warrant.(Hall, 2009).

In the preliminary hearing process, the Magistrate assesses whether the coercive measures taken by the investigator against the suspect are based on reasons that undoubtedly indicate that the suspect can be tried for committing a crime (probable cause).(Hall, 2009).

If there is any doubt about this, the case can be stopped before it reaches the trial stage. (Hall, 2009) Although countries in mainland Europe do not apply Habeas Corpus Act, they also emphasize the importance of judicial oversight of coercive measures that deprive a person of their rights. In France, the preliminary examination judge is known as Judge d’Instructionand Procureur, while in the Netherlands, the court supervisor is called Judge Commissioner.

The Procureur acts as a supervisor during the investigation process, verifying whether the arrest and detention carried out by the police during the investigation stage are valid. Furthermore, the Procureur also has the authority to determine whether the detention can be extended for another 24 hours, direct police activities, and determine whether the investigation can continue. (Hodgson, 2002)

In general, the Procureur's decisions are directed byJudge d’Instruction(Hodgson, 2002) who is responsible for all aspects of the investigation, starting from examining the accused, witnesses and other evidence, to making minutes of the examination, determining detention,

confiscation, and even deciding whether there is sufficient reason for a suspect to be referred to court. Andi Hamzah, Comparison of Criminal Laws in Several Countries (Jakarta: SinarGraphic, 2002), 193

Broadly speaking, the difference between a Procureur and a Judge d'Instruction lies in their authority. The Procureur tends to oversee police investigations, while the Judge d'Instruction is responsible for ordering investigations and conducting inquiries. This system is called the "supervised investigation" model.(Hodgson, 2002)

Once the Judge d'Instruction is involved in the investigation process, the Procureur is no longer responsible for supervising the process. P.J.P. Tak, The Dutch Criminal Justice System (Tak, 2008) Judge Commissioner not only can he act as an examining judge (carrying out executions), but he can also act as an investigating judge (examining witnesses and suspects).

In the preliminary examination process by the investigating judge, the defendant's defense team is given the right to attend every preliminary examination hearing because the principle emphasized is equality of arms which provides the possibility for the defense team to play an active role.(Tak, 2008)

Not only that, the defense team can also request the presence of additional witnesses or experts within reasonable limits.Judge Commissionerwho has full authority during the investigation activities. (Tak, 2008)

Once the case files reach the court, whether at the District Court or the High Court, the presiding judge is responsible for conducting the pre-trial phase, which aims to examine evidence and identify any irregularities encountered during the investigation or inquiry process. During this process, the judge may direct further investigation or conduct his own investigation. (Scheffer et al., 2010)

If the judge determines there is sufficient evidence to proceed to trial, he or she will set a trial date and ask the prosecutor to present any necessary witnesses. However, before the trial, the defendant may object to the judge's decision to proceed to trial and ask the judge to consider additional evidence. (Scheffer et al., 2010).

Additionally, before proceeding to trial, the judge may also hold a preliminary meeting with the prosecutor and defendant to narrow down the issues or limit the number of witnesses presented. Pre-trial plea bargains are also possible, allowing for changes to the prosecutor's charges. (Scheffer et al., 2010)

France

The provisions in the criminal procedure law highly uphold the basic rights of suspects from the time of arrest, detention, to trial in court. The 1958 Criminal Procedure Law and the law dated May 31, 2000 in Article 1 of the 2000 Criminal Procedure Law state the following:

1. The criminal procedure must be fair and give due hearing to the parties and preserve the balance between the parties' rights. It must guarantee the separation of the authorities responsible for the prosecution and the trial. People finding themselves in similar conditions and prosecuted for the same facts must be judged according to the same rules(criminal procedural law must be fair and provide an opportunity to hear the statements of the parties and maintain a balance between the rights of each party. Criminal procedural law must guarantee the separation of powers responsible for prosecution and trial. Those in the same circumstances and charged with the same facts must be tried by the same law);
2. The judicial authority watches over the investigation and guarantee of the victim's rights during the whole of the criminal procedure(the court's authority to supervise investigations and guarantee the rights of victims during the criminal proceedings);
3. Any person suspected or prosecuted is presumed innocent as long as their guilt has not been established. Attacks on the presumption of innocence are prevented, remedied and sanctioned according to the conditions laid down by the law. He has the right to be informed of the charges against him and to be represented by a defence lawyer(Any person who is

suspected or charged must be considered innocent as long as his guilt has not been proven. Violations of the principle of presumption of innocence must be prevented, corrected and sanctioned in accordance with the provisions of the law, he has the right to be informed of the charges against him and has the right to be represented by legal counsel).

In this law, point 3 reflects the presumption of innocence in the French Criminal Procedure Code. In addressing the presumption of innocence and the principle of due process of law, the paradigm that underpins the drafting of the French Criminal Procedure Code (Law of 2000, dated May 31st),

The French Criminal Procedure Code has strengthened the rights of both suspects and defendants and the rights of victims. Article 1, paragraph 2 of the French Criminal Procedure Code states the following:

"The judicial authorities watches over the investigation and guarantee of the victim's rights during the whole of the criminal procedure." (The French Criminal Law, 2001)**.**

In Article 3, the French Criminal Procedure Code states that: "Any person suspected or prosecuted is presumed innocent as long as their guilt has not been established." (Note the different formulation from the 2004 Judicial Power Law, and the general explanation of the Criminal Procedure Code).

In the following formulation, the French Criminal Procedure Code emphasizes several limitations on this legal principle, as stated:

In the pre-adjudication phase of the criminal justice system in France, according to Luhut M.P. Pangaribuan, there are three key organs that play a role in the preliminary examination or investigation of criminal cases in France, namely: (i)the judicial police, (ii) the procurator, And (iii) the examining magistrate."

There are two types of police regulated by the French Criminal Procedure Code: preventive police and enforcement police. Under French law, police are always accompanied by a supervising judge or investigator, but in practice, the judge often mandates police to act as supervisors, who then report to the supervising judge or investigator. Similar to the authority of police in Indonesia, police in France are also authorized, in the event of a catch in the act, to take legal action, which must be immediately notified to the supervising judge, investigator, or public prosecutor.

In addition, the French criminal procedure code of 2000 also allows the police to conduct expedited investigations into three incidents, namely:

1. The state of being caught red-handed (red handed) or immediately after the crime occurred;
2. If the suspect is found in possession of the alleged goods immediately after the crime was committed;
3. If the crime is committed in someone's home.

This, investigations can be conducted immediately without requiring prior permission. The only permitted action is a search, followed by a report to the public prosecutor. Therefore, there are two types of officers authorized to conduct investigations: those conducted by the police and those conducted by a judge (judicial investigations).

In the French Criminal Procedure Code, there is a fundamental difference between investigations conducted by the police and those conducted by a judge (judicial investigations). Police investigations have broader powers because they can detain individuals and record telephone conversations. Judicial investigations can only begin once the prosecution has begun.

In judicial investigations, the judge has the function of clarifying the evidence presented by police investigators and determining whether a case can be continued for trial or not.

The French criminal law system in the 2000 Criminal Procedure Code stipulates that the victim or the victim's family may take civil action in order to demand compensation or damages due to the losses suffered due to the crime committed by the perpetrator against the victim as regulated in Articles 2 and 3.

In this case, the victim or the victim's family can do the following two things.

1. If the suspect is known to the victim, the victim can immediately file a lawsuit against the suspect to appear in court.
2. If the suspect is unknown or has not yet been identified, they can report their complaint to the supervising judge or investigator.

Under the French Criminal Procedure Code, civil action by the victim or the victim's family can also be included in the legal proceedings if a prosecution has been initiated, which can be done either orally or in writing. To initiate a civil action, the requirement is that the person must be a direct victim, including having a psychological condition resulting from the crime.

In carrying out this civil action, the victim or the victim's family has advantages that can be obtained in the criminal procedure process, namely:

1. Cheaper, simpler, and faster;
2. The injured party can benefit from the evidence presented in the prosecution.

The criminal process in France is divided into only two phases: the first stage: investigation/prosecution, and the second stage: trial. There is no separation between police investigation and prosecution. Investigations and detentions carried out by the police must be approved by the prosecutor. Except in cases of red-handed arrest, the police may detain for up to eight days. The prosecutor (the Council of Prosecutors) is accountable to the Minister of Justice, who in turn reports to Parliament. Position of the ProsecutorPublic ProsecutorThe Netherlands stands on two lines, administratively and politically under the Minister of Justice because the Minister of Justice is responsible for the actions of prosecutors to Parliament, and on the second line, as part of the judicial power (judiciary), is under the judge. In France, there is no dedicated prosecutor overseeing police investigations. Therefore, French prosecutors do not screen or prepare police investigations. The Attorney General provides broad guidelines for proper investigations.

The police in France stand on two lines, in terms of maintaining public order they are under the Minister of the Interior and in terms of being investigators (judicial police/judicial police) is under the Prosecutor public prosecutor. The length of detention carried out on the orders of the Commissioner Judge is only 14 days, the 30-day detention period is carried out by the judge. Then in France detention was no longer carried out by judge d'instruction However, by a special judge chaired by the Deputy Chief Justice of the District Court, the French prosecutor's investigation has two options. First, to allow the police to continue their investigation or to refer the case to the Supreme Court.pretrial/judicial investigation which are called judicial informationIf other offenses are found during the inspection, thenjudge d'instructionInstruct the prosecutor to expand the examination, and may then order an investigation and detention. In a preliminary examination, the prosecutor is subordinate to the judge, acting as an equal party to the defendant. Double investigation is prohibited. The Investigating Judge may ask the prosecutor to read the conclusion of the case (a kind ofto requisition) after that, he made the decision to continue the prosecution.

Evidence may not be obtained unlawfully (illegal). The police may not use any method of provoking crime. Investigations are confidential (secrecy of the investigation), investigators may not disclose the results or developments of the investigation and are threatened with criminal penalties based on Article 11 of the Penal Code, which means:

a. Guard presumption of innocence (presumption of innocence, presumption innocence)
b. The interests of the examination itself (do not allow evidence or proceeds of crime to be hidden or diverted).

According to Luhut M.P. Pangaribuan, said that in France, commissioner judges have been used for quite some time. Commissioner judges are selected from among the court judges and serve for three years, renewable for a further three years. Commissioner judges "can not,

however, open an investigation unless requested to do so by the precurator or the victim. Investigation by commissioner judge“is mandatory when the precurator charges a serious felony (crime) and optional when delit or contravention charges are filed.
All authority will be determined by the commissioner judge if the National Police investigator or the Prosecutor wants to arrest a defendant who has been in custody for more than 1x24 hours, unless the defendant is caught red-handed in committing a crime, then the authority is without having to get the approval of the commissioner judge for his arrest.(Pangaribuan, 2009).

**Reformulation of Investigation Time Limit Regulations Based on Legal Certainty Values**

Normatively, the regulation of Criminal Justice in Indonesia is regulated by Law No. 8 of 1981 concerning Criminal Procedure Code (KUHAP). This regulation constitutes the substance of criminal procedural law, governing the series of criminal proceedings described in the diagram above. The criminal justice process begins with the inquiry and investigation stage, then continues with prosecution, trial, and execution. At each of these stages, a legal structure plays a role: the agency conducting the inquiry and investigation, the agency conducting the prosecution, the agency conducting the trial, and the agency carrying out the execution.

Investigation as the first process in a series of criminal proceedings is a series of actions researcher to search for and discover an event suspected of being a crime in order to determine whether or not an investigation can be conducted according to the methods regulated by law (Article 1 point 5 of the Criminal Procedure Code). The function of the investigation, therefore, is a filter that determines whether the events being investigated can proceed to the investigation stage. If the results of the investigation then indicate that a crime has occurred, then the investigation continues to the investigation stage. An investigation is a series of actions by the investigator in matters and according to the methods regulated by law to search for and collect evidence, which with this evidence makes clear about the crime that occurred and to determine the suspect (Article 1 point 2 of the Criminal Procedure Code)

Referring to the provisions of Article 1 number 5 of the Criminal Procedure Code, that the investigation aims to find "material events" of a criminal act, and determine whether or not an investigation can be conducted. The results of the investigation are then stated in the investigation report which is then studied, analyzed/processed to become useful information for the purposes of the investigation. Based on the definition of the Investigation, especially the phrase "... whether or not an investigation can be conducted..." there is a continuity between the Investigation process and the Investigation. However, if we compare the legal definition of Investigation with Investigation, this continuity is not yet reflected in Article 1 number 2 of the Criminal Procedure Code legal definition of Investigation. Based on this, it is not clear whether the results of the Investigation will be followed up in the Investigation stage or not. So there is the potential for the Investigation and Investigation process to be inefficient. In essence, the investigation process is a series of investigator actions based on the results of the investigation and/or conducting direct investigations (based on Article 106 of the Criminal Procedure Code), in terms of seeking and collecting evidence that with that evidence shed light on the crime that occurred and to find the suspect. In addition, in practice, the implementation of investigations is also often carried out too far into the investigation area. In response to this, it is necessary to reformulate Article 1 number 2 of the Criminal Procedure Code, to describe the continuity of the process between the Investigation and the Investigation. For example, in conducting an investigation into a Corruption case, to prove whether there was an intention to harm state finances is proven in court, not at the investigation stage. The results of the BPK audit can already show indications of state financial losses. This information is sufficient for the investigation process. This means that no expert testimony is needed, it is sufficient to look for events suspected of being a crime. Regarding Article 1 number 2 of the Criminal Procedure

Code, it is proposed to be changed to: "Investigation is a series of investigator actions based on the results of the investigation and/or conducting direct investigations in terms of seeking and collecting evidence that with that evidence shed light on the crime that occurred and to find the suspect."

The Criminal Procedure Code and its implementing regulations do not regulate in detail the time span of the investigation and inquiry process, so that cases often drag on, creating legal uncertainty over the fate of the case and harming the interests of the reporter/victim and the accused. One of the processes that causes the protracted cases is because the pre-prosecution mechanism as regulated in Article 14 letter b of the Criminal Procedure Code is not accompanied by a time limit and consequences for investigators and public prosecutors if the time limit is exceeded. Therefore, it is necessary to regulate the time limit for the investigation and inquiry process is very important.

If seen from its authority, Article 5 paragraph (1) letter a of the Criminal Procedure Code gives investigators the authority to: receive reports, seek information and evidence, order suspicious people to stop and ask for and check their identification, and take other actions according to responsible law. On the one hand, based on the provisions of Article 5 paragraph (1) letter b in conjunction with Article 16 paragraph (1) of the Criminal Procedure Code, investigators, upon the orders of investigators, have the authority to: make arrests, prohibit leaving a place, search and confiscate, examine documents, take fingerprints and photograph a person, bring and presentsomeoneto the investigator. Based on the above formulation, there is a positionresearcher, namely police officers who are authorized to carry out certain police actions (independently), and police officers who carry out actions in the context of carrying out duties by investigators. Comparing the authority of investigators with investigators based on Article 5 paragraph (1) of the Criminal Procedure Code with Article 7 paragraph (1) of the Criminal Procedure Code, several authorities of investigators, such as receiving reports, ordering someone to stop, and carrying out other actions according to law, are also the authorities of investigators. This further strengthens the fact that investigations are carried out within the framework of investigations and it is necessary to simplify the position of investigators to be combined with investigators. Basically, in criminal cases, the entry point for upholding law and justice (access to justice) is through investigations and inquiries. This begins with a report or complaint. The difference regarding this is related to the provisions in the Criminal Code regarding the existence of complaint offenses (klacht delict) and ordinary crimes. The problem with this is that there is often a perception that it is not yet within the authority of law enforcement officials to conduct investigations if members of the public who are deemed to have caused harm have not yet filed a report or complaint. This impacts the effectiveness of the investigation itself, creating a situation as if the state is not present to carry out its duty to protect the public when a crime has occurred.

Time Limit for Investigations Based on Legal Certainty Values

Considering the importance of the investigation stages, including the investigation period which provides legal certainty, Article 5 of the Criminal Procedure Code must add 1 (one) paragraph which specifically regulates the investigation period.

The maximum period for an investigation carried out by investigators is 30 (thirty) days from the date of receipt of a report of an incident suspected of being a criminal act. 30 (thirty) days is considered sufficient and appropriate forresearcherto do research.

**Tabel 1. Reformulation Of The Regulations On The Investigation Period In The Kuhap**

| BEFORE REFORMULATION | REASON | HOPE AFTER REFORMULATION |
|---|---|---|
| There isn't any yet | To provide legal certainty regarding the time period for investigations carried out by | Article 5 paragraph (3) of the Criminal Procedure Code |

| | | |
|---|---|---|
| | investigators, there are additional provisions in Article 5 paragraph (3) of the Criminal Procedure Code. | The investigation period as per paragraph (1) maximum 30 (thirty) days. |

Scope of Investigation Based on Legal Certainty Values
Article 5 paragraph (1) of the Criminal Procedure Code stipulates the investigator's authority and the investigator's authority that can be ordered to the investigator.
Article 5
(1) Investigators as referred to in Article 4:
a. because of his/her obligation to have authority:
1. receive a report or complaint from someone about a criminal act;
2. seeking information and evidence;
3. ordering a suspicious person to stop and asking for and checking their identification;
4. take other actions according to the responsible law.
b. on the investigator's orders, the following actions can be taken:
1. arrest, prohibition of leaving the premises, search and seizure;
2. inspection and confiscation of letters;
3. taking fingerprints and photographing a person;
4. bring and confrontoneto investigators.
(2) The investigator shall prepare and submit a report on the results of the implementation of the actions as referred to in paragraph (1) letters a and b to the investigator.

The authority of investigators in Article 5 paragraph (1) of the Criminal Procedure Code still gives rise to unclear norms, namely the authority of investigators to seek information and evidence, and the authority of investigators to carry out other actions according to responsible law.
In order to provide legal certainty, the investigator's authority in Article 5 paragraph (1) of the Criminal Procedure Code must be reformulated so as not to cause ambiguity in norms

**Table 2. Reformulation Of Scope Regulations Investigation In The Criminal Procedure Code**

| BEFORE REFORMULATION | **REASON** | **HOPE AFTER REFORMULATION** |
|---|---|---|
| Article 5<br>(1) Investigators as referred to in Article 4:<br>a. because of his/her obligation to have authority:<br>1. receive a report or complaint from someone about a criminal act;<br>2. seek information and evidence;<br>3. ordering a suspicious person to stop and asking for and checking their identification;<br>4. take other actions according to the responsible law.<br>b. on the investigator's orders, the following actions can be taken:<br>1. arrest, prohibition of leaving the premises, search and confiscation;<br>2. inspection and confiscation of letters;<br>3. taking fingerprints and photographing a person;<br>4. bring and bring people before investigators. | So that the investigator's authority can provide legal certainty,<br>so as not to create ambiguity in the norm. | Article 5<br>(1) Investigators as referred to in Article 4: have the authority to |

Authority and Reasons for TerminationResearchBased on the Value of Legal Certainty
Article 5 of the Criminal Procedure Code does not regulate the investigator's authority to stop an investigation, including the reasons for stopping it.research, Therefore, for the sake of legal certainty, authority is givenresearcherto stop the investigation, and the reasons for stoppingresearchwhat is certain, then there must be an additional paragraph in Article 5 of the Criminal Procedure Code.

As for the reasons for stopping the investigation, it could refer to:alas anTermination of investigation as stated in Article 109 paragraph (2) of the Criminal Procedure Code, namely: 1) there is insufficient evidence, or 2) the incident turns out not to be a criminal act, or 3) it is stopped by law.

**Table 3. Reformulation Of Authority Settings And Reasons For Terminationresearchin The Criminal Procedure Code**

| BEFORE REFORMULATION | REASON | HOPE AFTER REFORMULATION |
|---|---|---|
| There isn't any yet | So that there is a reason for terminationresearchwhich is legal certainty, so that- no no norm emptiness | Article 5 paragraph (4) of the Criminal Procedure Code<br>In terms of researcherstopresearchbecause there is not enough evidence or the incident turns out not to be a criminal act orresearcheris stopped by law, then the investigator will immediately notify the investigator, the reporter and the reported party or their family |

Supervision of Investigations Based on the Value of Legal Certainty

Remembering inside Criminal Procedure Codeonly regulates the form of horizontal supervision between investigators and public prosecutors (Article 109 paragraph 1 of the Criminal Procedure Code), and supervision by judges in cases where investigators request permission to search houses and carry out confiscations (Article 33 paragraph 1 and Article 38 paragraph 1 of the Criminal Procedure Code), there also needs to be regulation of internal supervision by the Indonesian National Police regarding investigations and inquiries as regulated in Article 5 paragraph (5) of the Criminal Procedure Code, namely internal supervision by the investigator's superior, the General Supervision Inspectorate Unit (Irwasum) and the Professional and Security Division Unit (PRO-PAM).

**Table 4. Reformulation Of Investigation Supervision Arrangements In The Criminal Procedure Code**

| BEFORE REFORMULATION | REASON | HOPE AFTER REFORMULATION |
|---|---|---|
| There isn't any yet | So that there is legal certainty regarding supervision and the parties who supervise the course of the investigation. | Article 5 paragraph (5) of the Criminal Procedure Code<br>Implementation of authorityresearcherin paragraph (1) is supervised internally by the investigator's superior, the General Supervision Inspectorate Unit (Irwasum) and the Professional and Security Division Unit (PRO-PAM) |

## CONCLUSION

The regulation of the time limit for investigations is not yet based on the value of legal certainty, because the investigation is in progress.Criminal Procedure Codeor outside the Criminal Procedure Code does not regulate the time limit for investigations, thus giving rise to legal uncertainty, which is a guarantee in Article 28D paragraph (1) of the 1945 Constitution, giving rise to losses for parties due to the investigator's actions, and potentially giving rise to arbitrariness. researcher in seeking information and evidence so that it is contrary to general

principlesdue process of lawwhich is a characteristic of a state based on law as outlined in Article 1 paragraph (3) of the 1945 Constitution, and is not in line with the principles of fast, simple and low-cost justice.

The urgency of regulating the time limit for investigations needs to be reformulated in the Criminal Procedure Code, namely: a) there is legal certainty regarding the final deadline for carrying out investigations, b) there is legal certainty regarding the closure/status quo (policeline) the scene of the crime and movable or immovable objects that have no connection with the examination of the case, and c) Not burdening the investigator's time, energy and thoughts due to the uncertainty of the investigation period. Therefore, for the sake of legal certainty, it is necessary to reformulate the investigation regulations in the Criminal Procedure Code by perfecting the scope of investigative actions in Article 5 paragraph (1), the definition and object of pre-trial in Article 1 number 10, and Article 77 of the Criminal Procedure Code and adding paragraphs in Article 5 of the Criminal Procedure Code that regulate a) the investigation period, b) reasons for terminationresearch, and c) Research Supervision.

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